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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,041	09/05/2000	Leonard Pinchuk	93-P0241US08[209.1580001]	9622
54953 7590 07/26/2010 BROOKS, CAMERON & HUEBSCH, PLLC 1221 NICOLLET AVENUE SUITE 500 MINNEAPOLIS, MN 55403			EXAMINER SEVERSON, RYAN J	
			ART UNIT 3731	PAPER NUMBER
			MAIL DATE 07/26/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/657,041

Applicant(s)

PINCHUK ET AL.

Examiner

RYAN J. SEVERSON

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30, 40, 42 and 59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-30 is/are allowed.
- 6) ☒ Claim(s) 40 and 42 is/are rejected.
- 7) ☒ Claim(s) 59 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 7/14/2010

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitagawa et al. (JP 64-32857) in view of Rhodes (5,122,154) and Lunn (5,476,506).** Kitagawa et al. disclose a bifurcated trunk liner (see figure 6) having a generally cylindrical body portion (A) and two leg portions (C). Each leg portion defines a leg opening (see figure 3). The leg portions abut one another and are secured to one another along their entire lengths (at B, see figure 1).
3. However, Kitagawa et al. fail to disclose a trunk component surrounding the trunk liner. Attention is drawn to Rhodes, who teaches trunk components (30) surrounding a liner (28) to provide structural strength to the liner to maintain it in an open configuration. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included a trunk component on the trunk liner of Kitagawa et al. as suggested by Rhodes to provide the same advantages.
4. Further, the combination of Kitagawa et al. and Rhodes fails to disclose cylindrical supportive leg components placed within the liner leg components. Attention is drawn to Lunn, who teaches the use of supportive stent components (36 and 38) placed within, but not connected to, a graft component with their ends protruding from

the graft (see figure 4) to secure and seal the graft relative to the vessel. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used supportive leg components in the liner leg components of the combination of Kitagawa et al. and Rhodes in the manner taught by Lunn to ensure the leg components are secured and sealed relative to the vessel.

5. Examiner notes with regard to Lunn, in the embodiment relied upon (i.e. figure 4), the stents appear to be deployed into the graft after the graft is placed at the treatment site (see column 4, lines 26-32).

6. Regarding claim 42, the combination of Kitagawa et al., Rhodes, and Lunn does not disclose the supportive components are self-expanding. However, making stent components self-expanding is a well-known art-recognized alternative equivalent to making stent components balloon expandable. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the stent components of the combination self-expanding instead of balloon expanding, as is well-known in the art. Since applicant failed to traverse examiner's assertion (made in the non-final of 11/9/2009), the common knowledge or well-known in the art statement is taken to be admitted prior art (MPEP 2144.03 C).

Response to Arguments

7. Applicant's arguments with respect to claim 40 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

8. Claims 1-30 are allowed in this reissue application.
9. Claim 59 is objected to as being dependent upon a rejected base claim.

Examiner notes that claim 59 defines over the prior art, but can not be rewritten in independent form because this reissue application would then no longer be correcting an identified error (more detailed explanation for this situation can be found in the Non-Final Rejection of 3/15/2010) and would not be allowed under 35 USC 251.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
11. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. SEVERSON whose telephone number is (571)272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.
13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ryan J Severson/
Examiner, Art Unit 3731
7/23/10

/Anh Tuan T. Nguyen/
Supervisory Patent Examiner, Art Unit 3731
7/24/10